

Christine Challoner Esq. [282413]
The Law Office of Christine Challoner
453 S. Spring St. #1119
Los Angeles, CA 90013
(323) 686-8363

Grant Beuchel Esq. [113327]
Attorney at Law
420 S. San Pedro Street #311
Los Angeles, CA 90013
(661) 428-7365

Attorneys for Petitioners

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE SKID ROW NEIGHBORHOOD
COUNCIL FORMATION COMMITTEE, an
unincorporated association, on behalf of itself
and all similarly situated Neighborhood
Councils; JEFF PAGE, individually and his
official capacity as Chair of the SRNC-FC;
KATHERINE MCNENNY, individually and in
her official capacity as Member of the SRNC-
FC; and DOES 1 through 3, as individuals and in
their official capacities as members of the Skid
Row Neighborhood Council Formation
Committee,

Petitioners,

vs.

CITY OF LOS ANGELES, a municipal entity;
THE DEPARTMENT OF NEIGHBORHOOD
EMPOWERMENT, an administrative agency;
THE CITY COUNCIL OF LOS ANGELES, an
legislative body; GRAYCE LIU, in her official
capacity as General Manager of the Department
of Neighborhood Empowerment; and DOES 7
through 50, inclusive,

Respondents.

DOWNTOWN LOS ANGELES
NEIGHBORHOOD COUNCIL, a municipal
entity,

Real Party in Interest.

CASE NO. BS 170257

**VERIFIED SECOND AMENDED
PETITION FOR WRIT OF
MANDATE, ADMINISTRATIVE
MANDATE AND DECLARATORY
RELIEF**

[Election Matter Priority]

//

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTRODUCTION5

JURISDICTION & VENUE.....6

THE PARTIES7

DEFINITIONS7

STATEMENT OF FACTS11

 Skid Row and the Decades Long Quest for a Neighborhood Council11

 Creation of the Subdivision Election

 Suppression of the SRNC-FC Vote, in Violation of State and

 Constitutional Law16

 Unreported Lobbying Activity by United DTLA

 Misconduct and Bias by DONE in Administering the Election

 Establishment of Multiple Unauthorized Polling Locations

 Prohibiting Homeless Voters from Voting at Certain Polls

 Implementing DLANC’s Suppressive Voter Registration Requirements

 Use and Distribution of DLANC’s Registered Voter List

 Implicit Consent to Electioneering by DLANC

 DLANC Endorsed Electioneering by United DTLA

 Administrative Hearing..... 24

CAUSES OF ACTION 30

PRAYER FOR RELIEF 42

 A.

TABLE OF EXHIBITS

EXHIBIT 1	Los Angeles Homeless Services Authority, <i>2017 Greater Los Angeles Homeless Count – Data Summary</i> (2017)
EXHIBIT 2	Alston, Philip, <i>Report of Special Rapporteur on extreme poverty and human rights on his mission to the United States of America</i> , UNITED NATIONS GENERAL AS2017 ELECTION MANUALBLY (May 4, 2018)
EXHIBIT 3	General Jeff, <i>LA City and LAPD Call “Arrest-Homeless-First-then-Provide-Services” a Success...Homeless Angelenos Disagree</i> , CITYWATCHLA.COM (June 11, 2018)
EXHIBIT 4	Chandler, Jenna, <i>LA ‘sterilized’ its streets for the ‘84 Olympics – how will it treat the homeless in 2028?</i> , LA.CURBED.COM (July 12, 2018)
EXHIBIT 5	Reyes, Emily Alpert, <i>Garcetti says LA can resume disputed ban on overnight sidewalk sleeping</i> , THE LOS ANGELES TIMES (June 22, 2018)
EXHIBIT 6	Etehad, Melissa, <i>L.A. County urges state to expand definition of ‘gravely disabled</i> , THE LOS ANGELES TIMES (January 30, 2018)
EXHIBIT 7	<i>All Show and No Substance, Proposition HHH First Year Performance Assessment</i> LOS ANGELES COMMUNITY ACTION NETWORK (November 2017)
EXHIBIT 8	Los Angeles, California, City Charter § 900 <i>et al.</i> (2017)
EXHIBIT 9	Department of Neighborhood Empowerment, <i>Plan for a Citywide System of Neighborhood Councils</i> (2013)
EXHIBIT 10	Los Angeles, California, Administrative Code §§ 22.800 <i>et al.</i>
EXHIBIT 11	Juliet Musso et al., <i>Toward Community Engagement in City Governance: Evaluating Neighborhood Council Reform in Los Angeles</i> , USC SCHOOL OF POLICY PLANNING AND DEVELOPMENT (2007)
EXHIBIT 12	Community Redevelopment Agency, <i>History of Skid Row</i> (1998) Community Redevelopment Agency, <i>Los Angeles’ Skid Row</i> (2005)
EXHIBIT 13	Transcript, <i>City Council Rules and Elections, Intergovernmental Relationships and Neighborhoods Committee meeting</i> (March 8, 2017)
EXHIBIT 14	Department of Neighborhood Empowerment, <i>2017 Neighborhood Council Subdivision Manual</i> (March 23, 2017)
EXHIBIT 15	Stephen Box, Re: ELA - Subdivision Questions (2017)
EXHIBIT 16	2015 Everyone Counts Professional Services Contract (to be lodged in full with the record)
EXHIBIT 17	Pop-Up Poll Map
EXHIBIT 18	Mike Fong, SRNC Formation (2017)
EXHIBIT 19	Department of Neighborhood Empowerment, <i>Neighborhood Council Election Acceptable Forms of Documentation</i> (February 1, 2014)
EXHIBIT 20	Mike Fong, Re: Skid Row Neighborhood Council questions (March 20, 2017)
EXHIBIT 21	Transcript, <i>Board of Neighborhood Commissioners meeting</i> (April 2002) [provided in full upon request]
EXHIBIT 22	Letter from City Attorney re Draft Subdivision Ordinance
EXHIBIT 23	City Council Recommendation to Adopt Draft without Amendment
EXHIBIT 24	Letter from Joseph Riser re Subdivision Ordinance Language
EXHIBIT 25	Report back from DONE re 2016 Online Voting Test Pilot Program (January 17, 2017)
EXHIBIT 26	Motion to ban online voting (June 29, 2016)
EXHIBIT 27	Amended motion to ban online voting (December 2, 2016)
EXHIBIT 28	Community Impact Statements re Online Voting
EXHIBIT 29	SRNC-FC Subdivision Application (to be lodged in full with the record)

1	EXHIBIT 30	DONE letter to SRNC-FC accepting its Subdivision Application (January 11, 2017)
2	EXHIBIT 31	Email scheduling meeting between Councilmember Huizar and DLANC Director Estela Lopez re: SRNC (January 12, 2017)
3	EXHIBIT 32	United Downtown Los Angeles LLC info from Delaware Secretary of State
4	EXHIBIT 33	Email blast of DLANC President Patty Berman's voter contact list (April 3, 2017)
5	EXHIBIT 34	DONE email blast to pre-registered voters re: voting instructions
6	EXHIBIT 35	Liner LLP 2017 Q2 disclosure of lobbying payments from United Downtown
7	EXHIBIT 36	Riskin, Adrian, Complaint to City Ethics Commission re Liner LLP and the SRNC
8	EXHIBIT 37	Email from Estela Lopez soliciting contributions to United Downtown Los Angeles LLC and attendance at March 22 City Council meeting
9	EXHIBIT 38	Complaint to City Ethics Commission re DLANC Director Rena Leddy and SRNC (to be lodged in full with record)
10	EXHIBIT 39	Agendas for the March 8 and March 22 Rules and Elections Committee Meetings
11	EXHIBIT 40	Transcript of the March 22 Rules and Elections Committee Meeting
12	EXHIBIT 41	Emails from DLANC Director Rena Leddy opposing the SRNC and discussing United Downtown Los Angeles LLC and March 22 City Council meeting
13	EXHIBIT 42	Email from DONE first notifying SRNC-FC of same day Pop-Up Poll
14	EXHIBIT 43	DONE email blast re same day Pop-Up Poll location change
15	EXHIBIT 44	2016 Neighborhood Council Election Manual re Homeless Voters
16	EXHIBIT 45	2016 and 2017 Neighborhood Council Election Challenge Portal
17	EXHIBIT 46	United DTLA Email
18	EXHIBIT 47	Emails from Patti Berman during United DTLA email campaign (March 31, 2017)
19	EXHIBIT 48	DTLA United Email
20	EXHIBIT 49	Emails between SRNC-FC constituents experiencing difficulty trying vote as part of a roster and DONE
21	EXHIBIT 50	Final SRNC-FC Vote Canvass
22	EXHIBIT 51	SRNC-FC Election Challenges #103, #104 and #105 (to be lodged in full with the record)
23	EXHIBIT 52	DONE email accepting the SRNC-FC's Election Challenges (April 14, 2017)
24	EXHIBIT 53	DONE Election Challenge Panel Memorandum and Report re Election Challenges (April 28, 2017)
25	EXHIBIT 54	DONE Rejection of Election Challenge Panel Determination (May 19, 2017)
26	EXHIBIT 55	DONE Report Back on SRNC-FC Election
27	EXHIBIT 56	DONE Failure to Recount

28	EXHIBIT 57	Transcript, <i>Town Hall Meeting</i> (February 15, 2017)
	EXHIBIT 58	Department of Neighborhood Empowerment, <i>About Neighborhood Councils</i> (July 22, 2018), http://empowerla.org/about-neighborhood-councils

The following allegations are based on information and belief, unless otherwise specified:

INTRODUCTION

1. The right to vote provides citizens a voice within governments that have neglected their needs. Without a voice, distrust between citizens and their government breeds stagnation. Given a vote and a voice, communities can together demand from their government the representation and resources they need to rise above their shared predicaments.

2. The Skid Row community is vibrant, and racially diverse community comprised of small business owners, wholesalers, non-profits, activists, and artists. It is also, generally, a low-income community, that includes the largest homeless population in the United States. At last count, that population of approximately 4,633 homeless persons was 62% Black. (*See Exhibit 1.*)

3. Local government has long-neglected the Skid Row community's needs, which include permanent supportive housing for its homeless population, clean streets, public restrooms, and readily-available spaces for community gatherings. (*See, generally, Exhibit 2.*) Nowhere is it more apparent that our criminal justice, health and welfare systems have failed a large portion of our population or that institutionalized racism continues to be a very serious problem in this country, over 50 years after the passage of the Civil Rights Act. (*See id.* at pp. 14-15.)

4. In December 2016, residents of Skid Row applied to separate from their existing Neighborhood Council, the Downtown Los Angeles Neighborhood Council ("DLANC"), to better address long-standing suffering within their community. Neighborhood Councils are City-certified entities that are empowered to take formal, albeit advisory, positions on local legislation, as well as receive funding for community programming. As such, Neighborhood Councils can be powerful tool for communities seeking to pool their resources and participate in civic life. One component of their advisory authority, is the ability to provide development initiatives within their boundaries the community support required for approval by the City Council. It is this latter ability, and the community's alignment with its low-income residents, that brought the will of downtown development interests to bear on the Skid Row separation effort.

5. Working together, in the months leading up to the Skid Row Subdivision Election, DLANC, its lobbyists, and the City of Los Angeles itself, created new laws and broke existing laws, all to unconstitutionally suppress the vote of the already-marginalized Skid Row community.

Nevertheless, in the final vote count, the Skid Row community lost the Subdivision Election by only 60 votes.

6. Since the election, the City and County of Los Angeles have rapidly mobilized to unconstitutionally criminalize and force institutionalize the Los Angeles homeless population, clearing the streets for more profitable development and the 2028 Olympic games. (*See, generally*, Exhibits 3, 4, 5 and 6.) Meanwhile, there has been no accountability for Proposition HHH funding, which voters specifically approved to provide permanent supportive housing for homeless in Los Angeles. (*See* Exhibit 7.) What has been missing is a City-certified voice that is capable of speaking on behalf of and rebuilding trust with Los Angeles' most vulnerable population, while simultaneously addressing the issues that population faces with wisdom, creativity and compassion.

7. Accordingly, Petitioners Skid Row Neighborhood Council Formation Committee, an unincorporated association, Jeff Page, an individual, Katherine McNenny, an individual, and DOES 1 through 3 (hereinafter, collectively, “Petitioners”), hereby petition this Court for a writ of mandate pursuant to Code of Civil Procedure section 1085, for administrative mandamus pursuant to Code of Civil Procedure section 1094.6 and for declaratory relief, to reestablish the rule of law, award the SRNC-FC its well-deserved Neighborhood Council, and secure its community the voice and resources they need, as follows:

JURISDICTION AND VENUE

8. This Court has jurisdiction under Code of Civil Procedure §§ 525, 1060, 1085, and 1094.6.

9. Venue is proper in the Superior Court of Los Angeles under Code of Civil Procedure §§ 393 and 395 because Respondents in this action are public entities situated in the City of Los Angeles and because the acts and omissions complained of in this Petition took place in the City of Los Angeles

//

//

PARTIES

10. Petitioner Skid Row Neighborhood Council Formation Committee (“SRNC-FC”) is now, and at all times herein mentioned, was an unincorporated association, operating within the boundaries of the City of Los Angeles, State of California.

11. Petitioner Jeff Page is now, and at all times herein mentioned was, an individual residing in the City of Los Angeles, State of California, a stakeholder in the Election, and founding member of the SRNC-FC.

12. Petitioner Katherine McNenny is now, and all times herein mentioned was, an individual residing in the City of Los Angeles, State of California, a stakeholder in the Election, and a founding member of the SRNC-FC.

13. Petitioners DOES 3 through 5 are now, and at all times herein mentioned, are individuals residing in the City of Los Angeles, State of California, stakeholders in the Election, and members of the SRNC-FC.

14. Respondent City of Los Angeles (“City”) is a government entity, created and existing pursuant of the Administrative Code of the City of Los Angeles to enact ordinances subject to the approval or veto of the Mayor, order elections, and prescribe duties of boards and officers not defined by Charter.

15. Respondent Department of Neighborhood Empowerment (“DONE”), is a duly constituted administrative agency created and existing pursuant to the Administrative Code of the City of Los Angeles for the purpose of empowering localities through local representative bodies.

16. DOES 6 through 50 are now, and all times herein mentioned in this petition were in some manner responsible for the acts and omissions that gave rise to this Petition.

17. Real Party in Interest Downtown Los Angeles Neighborhood Council (“DLANC”) is a representative body, created and existing pursuant to the Los Angeles City Charter, the Los Angeles Administrative Code.

DEFINITIONS

18. Citywide System of Neighborhood Councils (“CSNC”): In 1999, amidst rumblings of secession by several underrepresented areas of the City, Los Angeles voters approved a new City Charter. The Charter established a “Citywide System of Neighborhood Councils” “to promote citizen participation in government and make government more responsive to local

needs” including “the many diverse interests in communities.” (See Exhibit 8.) The new Charter created a Department of Neighborhood Empowerment and tasked it with formulating a “Plan for the Citywide System of Neighborhood Councils.” These regulations, would, amongst other things, provide minimum standards to ensure neighborhoods would have a voice in their development. (See Exhibit 9.) The Plan was approved by the City Council on May 25, 2001.

19. Department of Neighborhood Empowerment (“DONE”): DONE is the City agency in charge of administering the Citywide System for Neighborhood Councils. DONE’s responsibilities are enumerated under Los Angeles Administrative Code section 22.800 *et al.* (See Exhibit 10.) It’s primary duty is to:

“Assist all groups and stakeholders...so they will have an equal opportunity to form and develop Neighborhood Councils by... providing assistance to areas of the City with traditionally low rates of participation in government...and mitigating barriers to participation...”

(Ex. 10 at p. X)

20. Board of Neighborhood Commissioners (“BONC”): BONC is a government entity established to oversee DONE. Although it has broad and binding policy-making authority with respect to the CSNC, its authority is subordinate to the City Council’s legislative authority. With respect to DONE, BONC is responsible for policy setting, oversight and contract approval, but it is limited to an advisory role in DONE’s day-to-day management.

21. Neighborhood Councils (NCs): NCs are local representative bodies that address local issues and organize community programming for Stakeholders within a given geographic area. In April 2016, the City Council gave NCs the authority to take formal positions on City Council agenda items via the submission of Community Impact Statements. (See Exhibit 9 at p. 35.) To effect their purposes, each of the 99 NCs in Los Angeles, receives approximately \$47,000 in funding from the City each year.

A 2007 report by the U.S.C. School of Public Policy, Planning and Development found that “[t]he overall picture [of neighborhood councils] is one of “elite” dominated boards, with high-income residents overrepresented compared to LA City residents as a whole” and that “the

1 *racial and ethnic composition of neighborhood council boards does not mirror that of Los*
2 *Angeles residents.” (See Exhibit 11.)*

3 **22. Business Improvement District (“BID”):** An organization comprised of business and
4 property owners located within a geographically defined area that pay an assessment that is used
5 to fund special services within their boundaries, such as private security, street cleaning, and
6 lobbying activity. BIDs within the proposed Skid Row Subdivision include the Downtown
7 Industrial Business Improvement District (administered by the Central City East Association), the
8 Fashion District Business Improvement District and the Historic Core Business Improvement
9 District. BIDs often have a heavy, and pro-business hand in the City’s policies towards its
10 homeless population and utilized resources to undermine the Skid Row Subdivision effort.

11 **23. Stakeholder** – Stakeholders are members of a given Neighborhood Council. To be
12 qualified as a Stakeholder and vote in a particular Neighborhood Council election, one must live,
13 work, or own real property in the neighborhood or “declare a stake in the neighborhood as a
14 community interest stakeholder, defined as a person who affirms a substantial and ongoing
15 participation within the neighborhood council’s boundaries, and who may be in a community
16 organization such as, but not limited to, educational, non-profit, and/or religious organizations.”
17 (See Exhibit 9 at pp. 17, 24.)

18 **24. Downtown Los Angeles Neighborhood Council (DLANC):** DLANC is the
19 Neighborhood Council that presently represents the area of the City known as Skid Row. The
20 DLANC Board does not include seats for all Stakeholders in the Skid Row neighborhood, such as
21 low-income members of the Skid Row community.

22 **25. Skid Row** – Skid Row is a neighborhood in downtown Los Angeles, that has
23 historically been a place where low-income individuals can find housing and supportive social
24 services. (See Exhibit 12.) It is comprised of approximately fifty city blocks immediately east of
25 the financial district, and is bordered by Third Street to the north, Seventh Street to the south,
26 Alameda Street to the east, and Main Street to the west. (See *Id.*; and Jones v. City of Los
27 Angeles, (9th Cir. 2006) 444 F.3d 1118, 1121, vacated, (9th Cir. 2007) 505 F.3d 1006.)
28

1 **26. Historic Cultural Neighborhood Council (HCNC)**– The Neighborhood Council that
2 represents the Arts District, El Pueblo, Solano Canyon, Chinatown, Little Tokyo and Victor
3 Heights.

4 **27. Subdivision Election** – A City-established procedure whereby Stakeholders within
5 an existing Neighborhood Council district may apply to DONE to be removed from their existing
6 Neighborhood Council, or “subdivide,” and organize as a separate Neighborhood Council. (See
7 Exhibit 9 at 35-36.) Within 90 days of the date DONE accepts a given Subdivision Application, it
8 will conduct a referendum election at which Stakeholders in the existing Neighborhood Council
9 may vote on whether to approve the Subdivision. In typical Neighborhood Council elections, there
10 is only one polling location. (See Exhibit 13.) The Skid Row and Hermon Subdivision Elections
11 were the first of their kind in the history of the City of Los Angeles.

12 **28. 2017 Subdivision Election Manual (“2017 Election Manual”)** – On March 23, 2017,
13 just thirteen days before the SRNC-FC Subdivision Election, DONE published the “2017
14 Subdivision Election Manual” which provided new and Petitioner’s allege, unconstitutional or
15 otherwise unlawful, rules for the conduct of the Skid Row Subdivision Election, including online
16 voting. (See Exhibit 14.) The 2017 Election Manual was crudely adapted 2016 Neighborhood
17 Council Election Manual, the document that provided the rules for the 2016 Neighborhood
18 Council candidate elections. No member of the SRNC-FC ever saw the final 2017 Election
19 Manual until after the election.

20 **29. Everyone Counts, Inc. (E1C)** - Everyone Counts, Inc. is the Delaware corporation
21 contracted by the City of Los Angeles to administer online voting for the Neighborhood Council
22 elections. (See Exhibit 12.) Everyone Counts designed and administered the online voting
23 platform utilized in the SRNC-FC Subdivision Election. The platform was accessible to registered
24 voters via their personal electronic devices as well as kiosks found at Pop-Up Polls.

25 **30. Pop-Up Polls (PUPs)** – PUPs are in-person polling locations that are connected to
26 the internet, in violation of California law. In the thirteen days leading up to the SRNC-FC
27 Subdivision Election, DONE established twelve PUPs, nine of which were located outside of the
28 boundaries of the proposed SRNC-FC subdivision, in violation of local law. (See Exhibit 17.) To

vote at these polling locations, DONE required Stakeholders to provide extensive documentation of their Stakeholder status to poll workers. Homeless persons were not permitted to vote at PUPs. These later mandates, Petitioners argue, were issued in violation of Federal law.

31. Stakeholder Documentation – According to DONE, because DLANC chose to require documentation of Stakeholder status in its 2016 NC election, as opposed to accepting voters’ self-affirmation of their Stakeholder status, new voters in the SRNC-FC Subdivision Election were required to comply with the documentation requirements implemented in DLANC’s 2016 NC election. These requirements are detailed in a twelve-page document DONE memorandum. (*See Exhibit 13.*)

STATEMENT OF FACTS

The Skid Row Community's Decades-Long Quest for a Neighborhood Council

32. As early as 2001, Skid Row community activists organized efforts to obtain their own NC. In April 2002, they submitted a letter of intent to BONC which at the time, was the entity in charge of certifying communities as NCs.

Although BONC determined Skid Row’s letter of intent “did not meet the Board’s requirements,” it nevertheless considered adjusting then-applicant DLANC’s proposed boundaries to create a Skid Row Neighborhood Council at the time. After hearing from Skid Row community members about the unique issues faced by their community, BONC ultimately decided it would not give the Skid Row community its own Neighborhood Council, citing the size of the Skid Row population as being too small. If the Skid Row community’s issues continued, BONC advised community members to “come to a meeting and sign a paper to us, address us, if there is a concern.” (See Exhibit 19.)

33. In the following years, the complex needs of the Skid Row community were, if not entirely ignored, grossly neglected by DLANC and the City and County of Los Angeles. SRNC-FC members identify as central to their need for their own NC, a lack of concern towards their community's issues experienced at DLANC meetings and a lack of representation on the DLANC board of directors.

\\

Creation of the Subdivision Elections

34. On November 25, 2015, the City Council instructed the City Attorney and BONC to develop a policy permitting “new council certification for [an] area being removed if desired at the grass roots level.” On August 12, 2016, the City Attorney submitted a draft ordinance to the City Council providing for “subdivision election procedures.” (See Exhibit 22.) On September 16, 2016, the Rules, Elections, Intergovernmental Relations and Neighborhoods Committee recommended that the City Council adopt the City Attorney’s draft ordinance without amendment and the City Council did so on September 30, 2016. (See Exhibit 23.)

35. The ordinance provides that “[t]he Department shall conduct an election within the boundaries stated in the subdivision petition within 90 days of the Department’s approval of the subdivision petition.” (Emphasis added.)(*Id.*) In a letter documenting his experience serving on the Neighborhood Council Plan Review & Reform committee tasked with drafting the original subdivision ordinance, Joseph Riser further confirms that the phrase “within the boundaries” was “actually and very specifically added” by the City Attorney’s office. (Exhibit 24.) It indisputable that City Attorney and the City Council clearly intended for Subdivision Elections to be conducted within the boundaries of the proposed subdivision.

36. The “Regulations” section of the Subdivision Ordinance authorizes DONE to “promulgate any further procedure, rule, or regulation necessary for the administration of the subdivision process contained in this section...” Although, DONE was at all times under a duty to “*assist all groups and stakeholders seeking certification so that they will have an equal opportunity to form and develop Neighborhood Councils...*” (See Exhibit 1, *emphasis added.*) DONE would go on to implement regulations governing the SRNC-FC Subdivision Election that were biased against the SRNC-FC and that ultimately and unlawfully caused the SRNC-FC to lose its Subdivision Election.

The SRNC-FC Timely Submits its Subdivision Application

37. From approximately November 29, 2016 through December 19, 2016, the SRNC-FC timely submitted its Subdivision Application to DONE. The 181-page document detailed the SRNC-FC’s extensive outreach efforts to the community, and included a map of its

1 proposed boundaries, as well as over 200 petition signatures, and letters of support from
2 community organizations, non-profits, and the press. (See Exhibit 15.)

3 **38.** On January 11, 2017 DONE accepted the SRNC-FC’s Subdivision Application,
4 finding it to be complete. (See Exhibit 29.) In its acceptance letter, DONE indicated it would
5 hold a Subdivision Election “within 90 days” that would “include a polling location in the
6 proposed Neighborhood Council boundaries and may also include online voting.” (See Exhibit
7 30.) On January 12, 2017, this letter was forwarded to DLANC and HCNC with information
8 about how the proposed SRNC Subdivision would affect each of their boundaries

9 **39.** On January 11, 2017 DONE unilaterally chose Thursday, April 6, as the date of the
10 SRNC-FC Subdivision Election.

11 **40.** Neighborhood Council elections have always occurred at a single-polling location.
12 (Exhibit 13 at pg. 7, ln. 7-18.) However, at a February 15, 2017 Town Hall Meeting at the James
13 Woods Community Center in Skid Row convened by DONE to address questions about the
14 SRNC-FC Subdivision Election, DLANC Stakeholders expressed concern that more than one
15 polling location would be needed for the SRNC-FC Subdivision Election.

16 **41.** Stephen Box, DONE’s Director of Outreach and Communication, addressed the
17 single-polling location issue:

18 *“[I]t’s a capacity issue and I apologize. I think online voting would*
19 *be a tremendous opportunity to overcome that barrier but we don’t*
20 *have the permission, we don’t have the mechanism in place.”*

21 *“The locations is a resource issue...”*

22 **42.** Mike Fong, DONE’s Director of Policy and Government Relations, addressed
23 the poll location issue:

24 *“[I]t will be somewhere within the proposed boundaries of the Skid*
25 *Row neighborhood council- that’s the way that Ordinance was*
26 *written, and so that’s the way the election will be held.”*

27 Mr. Box reaffirmed Mr. Fong’s statement:
28

1 *“It needs to be within the boundaries of the Skid Row Formation*
2 *Committee’s proposed map...”*

3 *“Yes, it has to be within the Skid Row. I appreciate the fact that*
4 *you’re thinking good and hard.”*

5 (Exhibit 57

6 **43.** At DONE’s instruction, the SRNC-FC convened after the Town Hall Meeting and
7 chose the James Woods Community Center, a facility well-within the boundaries of the proposed
8 SRNC-FC Subdivision, as its polling location.

9 **Online Voting at Neighborhood Council Elections, in Violation of State Law**

10 **44.** Under California law, voting systems are not permitted to be connected to the
11 internet at any time unless the system has been specially approved by the Secretary of State or
12 specifically authorized by California Elections Code section 19209. (*Cal. Elec. Code* §§19205,
13 19209(g).)

14 **45.** In the 2016 NC board member elections, NCs were permitted opt into an online
15 voting test-pilot program, administered by E1C. The E1C voting platform was at all times
16 connected to the internet, but was not specially approved by the Secretary of State or otherwise
17 authorized by law.

18 **46.** NCs using the E1C test-pilot program experienced serious difficulties that called
19 the integrity of the E1C voter platform into question. These issues were well-documented.
20 (Exhibit 25.) In the Studio City NC election, for example, voter’s usernames and passwords were
21 disclosed to incumbent NC councilmembers. Another issue involved voter suppression resulting
22 from DONE’s extensive Stakeholder documentation requirements. DONE itself stated, that voter
23 suppression resulting from extensive documentation requirements, is “in the nationwide
24 conversation of voter suppression, [is] one of the most significant...tools for excluding voters.”
25 (*Id.*)

26 **47.** As a result of these and other issues, on June 29, 2016, the City Council suspended
27 online voting and requested that DONE report as to about what actions it would take to improve
28 the online voting process for future NC elections. (*See* Exhibit 26.) The City Council retained
discretion to determine the conditions under which online voting could be reimplemented, “after

1 considering DONE's report." (Id.) On December 2, 2016, in anticipation of the upcoming
2 subdivision elections, the City Council amended its motion to require any report be completed
3 *within 30 days, or in sufficient time for the Council to take any necessary action prior to any*
4 *future neighborhood council election.*" (See Exhibit 27.)

5 **48.** DONE's report, which was submitted to the City Council on January 17, 2017,
6 recommended, amongst other things, that the City Council "[i]nstruct the Department of
7 Neighborhood Empowerment to require picture identification along with self-affirmation of the
8 stakeholder type...to register to vote in order to make the voting process easier." (Exhibit 25)

9 **49.** With the passing of the amended motion, and DONE filing its report, the prospect
10 of online voting quickly established itself as an issue of concern for the SRNC-FC, whose low
11 income and homeless constituents, would have difficulty voting if extensive documentation
12 and/or internet were required to do so.

13 **50.** The SRNC-FC was not alone in its concerns about online voting. From September
14 2016 through March 2017, at least twelve Neighborhood Councils submitted Community Impact
15 Statements were added to the above City Council file. These Statements generally advocated for
16 drastic reform of the online voting system before it could be reimplemented. (See Exhibit 28.)
17 One Community Impact Statement informed the City Council that online voting is illegal in
18 California. Two addressed problems that had resulted because of inequitable of PUPs in locations
19 that favored one candidate over another. Several discussed the disenfranchisement of voters that
20 had resulted from DONE's extensive ID and Stakeholder documentation requirements.

21 **51.** At the February 15, 2017 Town Hall Meeting, Mr. Fong and Mr. Box conceded
22 that online voting was still an option for the SRNC-FC Subdivision Election. Specifically,
23 paper ballot voting at a single location was termed "Plan A," online voting was "Plan B." Mr.
24 Box cautioned that the implementation of online voting was subject to approval by the City
25 Council and advised anyone wishing for it to be implemented for the SRNC-FC Subdivision
26 Election, to lobby their Councilmember.

27 **52.** At the February 15 Town Hall Meeting, DONE also described the voter-
28 registration process, as it would proceed under both Plan A and Plan B. Mr. Box stated as to

1 Plan A:

2 *“They would come in and they would fill out a single piece of*
3 *paper, a registration form, and they would exchange it for a*
4 *ballot...*

5 *“There is an accommodation made for the fact that some folks*
6 *don’t have documents and so that accommodation will be made*
7 *and so that will be addressed on, at the polling place...*

8 *Yes, [there is a way to register people before the election], but you*
9 *won’t register them with us because when they show up they are*
10 *going to exchange that paper, ok? So, the only pre-registration, if*
11 *there were online voting, they could register online, ahead of time.*
12 *But what you can do is get those rosters from those organizations*
13 *that are active in the community, they still will have to walk-in that*
14 *day with their personal ID to show who they are and to exchange*
15 *it...”*

16 53. Accordingly, with the polling time and location established, and less than two
17 months to go before the election, the SRNC-FC invested substantial resources into outreach to its
18 low-income constituents, including in-person advocacy, attendance at community meetings, as
19 well as printing and posting flyers in the neighborhood.

20 54. As for further details about how the Subdivision Election would proceed, the
21 SRNC-FC was left in the dark. Up until two weeks before the election, there was no manual
22 providing Subdivision Election rules, and the SRNC-FC’s requests for information from DONE
23 received scant a response. (See Exhibit 20.)

24 **Suppression of the SRNC-FC Vote, in Violation of State, Municipal and Constitutional Law**

25 ***

26 **Unreported Lobbying Activities by United Downtown Los Angeles LLC Against the SRNC-** 27 **FC**

28 55. In January 2017, a group of downtown Los Angeles development interests began
coordinating what would become a well-funded, covert, and effective, SRNC-FC voter
suppression effort. On March 3, 2017, this effort formally organized as Delaware corporation
United Downtown Los Angeles LLC (“United DTLA’). (Exhibit 32.) At least two DLANC

1 Directors, Estela Lopez and Rena Leddy, were central organizers of United DTLA’s SRNC-FC
2 voter suppression effort.

3 **56.** It was widely understood by those working against the SRNC-FC effort that the
4 reimplementation of online voting for the SRNC-FC Subdivision Election would “flip the switch”
5 and automatically register 1065 DLANC and HCNC constituents to vote. (See Exhibit 13.) As
6 such, a central component United DTLA’s effort was obtaining Councilmember Huizar’s
7 agreement to reimplement online voting shortly before the SRNC-FC election, without any
8 measures to protect the fundamental Constitutional rights of SRNC-FC constituents.

9 **57.** On January 12, 2017, upon receiving notification that the SRNC-FC’s Subdivision
10 Application had been accepted, Executive Director of the HCBID Blair Besten, called a meeting
11 with Councilmember Jose Huizar, then-DLANC Director and DIBID Executive Director Estela
12 Lopez, and Broadway theater owner Michael Delijani, to discuss the “Skid Row Neighborhood
13 Council.” (See Exhibit 27.)

14 **58.** At some point after organizing, United DTLA formally engaged Mr. Rockard
15 Delgadillo’s lobbying firm, Liner LLP, to further its efforts. These efforts have largely been
16 concealed, in violation of the Municipal Lobbying Ordinance. Liner LLP did not initially disclose
17 any lobbying on behalf of United DTLA in Q1 or Q2 of 2017 to the City Ethics Commission.
18 Given the extensive lobbying done by Liner on behalf of United DTLA in Q1 of 2017, both before
19 and after United DTLA’s organization as a Delaware corporation, Liner very likely has extensive
20 outstanding disclosures of lobbying activity against the SRNC-FC on behalf of individuals and
21 United DTLA in Q1.

22 **59.** In July 2017, three months after the election, Liner LLP late-amended its Q2
23 disclosure to add \$45,000 in contributions from United DTLA. The disclosure indicates that
24 United DTLA was very likely organized by then-DLANC Director and DBDID Executive
25 Director Estela Lopez, as it lists the DBDID’s address and telephone number as United DTLA’s
26 contact information.

1 **60.** Although a complaint filed with the City Ethics Commission calls for an
2 investigation into the issues, Liner LLP has since been acquired by law firm DLA Piper and has
3 vacated its downtown Los Angeles offices.

4 **61.** On March 17, 2017, Rocky Delgadillo, submitted a ten-page letter to BONC on
5 behalf of Liner LLP and United DTLA, and copied Councilmember Huizar and DONE General
6 Manager Grayce Liu. The letter, amongst other things, requests that online voting be
7 implemented for the SRNC-FC Subdivision Election.

8 **62.** On March 20, 2017 at 11:00 a.m. then DLANC-Director Ms. Lopez organized a
9 “Skid Row Neighborhood Council update call” with Mr. Delgadillo and DLANC Director Ms.
10 Leddy. Shortly the meeting, Ms. Leddy sent out emails to property owners in her BID, rallying
11 them against the SRNC-FC. In one of these emails, Ms. Leddy describes United DTLA as an
12 entity formed by property owners in the proposed new NC who had engaged Mr. Delgadillo to
13 postpone the election.

14 **63.** On March 20, 2017 at 1:00 p.m. DLANC Director Rena Leddy joined Mr.
15 Delgadillo at a BONC meeting, to lobby for postponement of the election.

16 **64.** On March 20, 2017 at 5:29 p.m. Ms. Lopez updated her email list about the results
17 of the BONC meeting, which she had not attended, and solicited donations to United DTLA.

18 **The City Council and DONE’s Unlawful Reimplementation of Online Voting**

19 **65.** Action by the City Council to reimplement online voting for the SRNC-FC
20 Subdivision Election was planned to occur at two Special Meetings of the Rules, Elections,
21 Intergovernmental Relations and Neighborhoods Committee, chaired by Councilmembers Jose
22 Huizar, Herb Wesson and Marqueece Harris-Dawson.

23 **66.** Each of these meetings was called as a Special Meeting related to the Council File
24 on the online voting suspension, requiring only 24 hours-notice. The actual notice of each of the
25 Special Meetings violated the Brown Act in that neither notice indicated that action would be
26 taken on the issue of online voting for SRNC-FC Subdivision Election. (See Exhibit 29.) The
27 applicable agenda item for each meeting merely indicated that the meeting related to the
28 “[DONE] Report relative to an online voting pilot for Neighborhood Council elections.”

1 **67.** The March 8 meeting was an opportunity for the NCs present to vocalize their
2 strong opposition to the reimplementation of online voting in its present state. Petitioner
3 Katherine McNenny took the opportunity to outline the problem with online voting for the
4 SRNC-FC Subdivision Election, advocating for paper ballots:

5 *“...[T]he vast majority of Skid Row residents, approximately 12,000,*
6 *are very low income. This means that they do not have easy access to*
7 *a computer. Even the majority that are housed in the community utilize*
8 *free Obama phones. I mention these Obama phones because it is*
9 *important to understand that these are not smart phones, but flip*
10 *phones. Uploading pictures of documents on an Obama phone is all*
11 *but impossible.*

12 *Most of the low-income residents in Skid Row must travel outside of*
13 *the neighborhood to gain access to a computer. Many use the library.*
14 *Within Skid Row there are very limited access points to a computer. Of*
15 *the few that are available to the public, there are several barriers to*
16 *use such as limited times, requirements for being enrolled in a specific*
17 *program, even gender.*

18 *For these reasons and more, online voting is not the appropriate way*
19 *for the Skid Row community to vote in this critical, upcoming,*
20 *Subdivision Election. I would respectfully remind everyone that this is*
21 *our application and our community has unique challenges.”*

22 *(Id.)*

23 **68.** DLANC President Patti Berman and DLANC VP of Administration Rob Newman
24 both indicated they had been informed meeting was called to discuss online voting for the SRNC-
25 FC Subdivision Election.

26 **69.** When questioned at the March 8 meeting whether there would be another meeting
27 to discuss online voting, Councilmember Wesson responded, “Well I don’t want to say in
28 advance what we’re gonna do until I hear what happens.”

29 **70.** Although DONE’s January 17, 2017 Report Back to the City Council was reason
30 for the meeting and appended each of the meeting agendas, DONE was not present to discuss its
31 report. This fact did not, by the audio recording of the meeting, seem to cause Councilmember
32 Huizar any surprise.

33 **71.** It appears those involved with United DTLA were apprised of the date of the
34 continued Rules, Elections, Intergovernmental Relations and Neighborhoods Committee meeting
35 before it was known to the public, or any member of the SRNC-FC. In Ms. Leddy was able to

1 advise and solicit the attendance of her email list of the upcoming meeting on “Wednesday,”
2 March 22. (See Exhibit 38.)

3 72. At the March 22 meeting, Councilmember Huizar reopened public comment “as a
4 courtesy” to those present at the meeting, which this time included a chorus of Downtown Los
5 Angeles development interests, rallied by, amongst others Estela Lopez and Rena Leddy. These
6 individuals complained that they lacked knowledge about the election and would be
7 disadvantaged by a single polling location.

8 73. Ms. Liu made it clear that it was DLANC’s responsibility to conduct outreach to its
9 constituents. As Ms. Liu stated about the risk of not doing so: “if only the forming committee is
10 doing the outreach and the neighborhood council does no outreach, it is very likely the forming
11 committee is going to have a majority of the voters there.” (Ex. 12, pg. 5, ln. 4-6.) Despite this,
12 Councilmember Huizar went on in his effort to ensure, DLANC’s failure to conduct voter
13 outreach did not disadvantage its constituents.

14 74. After hearing public comment, Councilmember Huizar admits the meeting was
15 called to move forward with online voting for the SRNC-FC Subdivsion Election. (Ex. 12, p.
16 2, ln. 8-14.) From the audio recording, Councilmember Huizar is very apparently reading from
17 a script while he questions DONE General Manager Grayce Liu about how reimplementation
18 of online voting could be done in a “transparent, practical, and reasonable” manner for
19 “everyone involved.” (Ex. 12, p. ln. 13-14.)

20 75. Ms. Liu was unable to answer Mr. Huizar’s question. She did, however, speak at
21 length about concerns regarding voter registration:

22 *“As I mentioned, it’s likely, uh the hiccups that we did have, were*
23 *in regards to getting the documentation, all of the documentation*
24 *that is needed to actually allow folks to vote. So neighborhood*
25 *councils can either self-affirm or they can use documentation to*
26 *register to vote. DLANC has documentation. And when you have*
27 *documentation, when they were submitting information online for*
28 *voter registration, sometimes they didn’t give us everything that*
was needed. In fact, one of our recommendations, for the online
voting, and just in general even if we didn’t have online voting, we
would recommend that all NCs go to self-affirmation. The process
of documentation is very burdensome to stakeholders. It is literally

1 *the hardest registration of any voting, of any federal, state, county*
2 *level, because you have to show deeds to your house, you have to*
3 *bring your 1099s and your W-2s. And people who want to vote and*
4 *participate are not used to providing that type of information.”*

5 76. Ms. Liu further made clear that DONE would permit Stakeholders from previous
6 elections to be automatically registered to vote in the SRNC-FC Election:

7 *“...because we are able to basically flip a switch and turn on the*
8 *existing databases that were created for Historic Cultural*
9 *Neighborhood Council and for Downtown Los Angeles*
10 *Neighborhood Council. I know that some folks expressed concern*
11 *regarding the process of voter registration. For us, the folks that*
12 *already voted, the 847 people for Downtown Los Angeles*
13 *Neighborhood Council in the 2016 elections as well as the 194*
14 *people in Historic Cultural. They’re already preregistered and*
15 *ready to vote. They will simply be emailed information on how to*
16 *register online to get their user ID and password. They will not*
17 *have to give us their documentation again to show that they are*
18 *stakeholders.”*

19 77. In sum, Ms. Liu acknowledged the difficulties that new voters would have with
20 registration, that it would be easier to notify DLANC stakeholders about online voting if
21 implemented, that 1065 DLANC constituents would be automatically registered, and dodged the
22 question of whether two weeks was “sufficient time” to fairly implement online voting. Ms. Liu
23 did nothing to remedy the inevitable issues SRNC-FC constituents would have with DONE’s ID
24 and Stakeholder documentation requirements, after noting in her own report that such
25 documentation, “in the nationwide conversation of voter suppression, is one of the most
26 significant...tools for excluding voters.”

27 78. After hearing from Ms. Liu, Councilmember Huizar ended the meeting by reading
28 a prepared statement that implemented online voting for the SNRC-FC Subdivision Election only
and very specifically tabled implementation of the recommendations in DONE’s report, including
the recommendation addressing voter suppression until a later time. (Ex. 12 at p. 7 ln. 20 – p. 8
ln. 5.)

79. On March 24, 2017, the City Council adopted the recommendation of the Rules,
Elections and Neighborhood Council Committee, officially lifting the ban on online voting for

1 the Skid Row Subdivision Election while continuing the ban on online voting throughout the rest
2 of the City.

3 **DONE's Election Rule Bias Against the SRNC-FC**

4 **80.** On March 23, 2017, *one day before* the City Council voted to approve online
5 voting, and only fourteen days before the SRNC-FC Subdivision Election, DONE informally
6 circulated its 2017 Election Manual. (See Exhibit 15.) The manual further indicates DONE's bias
7 against the SRNC-FC, and actual misconduct in administering the SRNC-FC Subdivision
8 Election, particularly given DONE's duty to provide all Stakeholders an equal opportunity to form
9 and develop Neighborhood Councils.

10 **81.** While this manual was delivered in draft form to SRNC-FC member Antonio
11 Rodriguez on March 23, 2017, no final copy was ever delivered to SRNC-FC Chair, Petitioner
12 Jeff Page, who remained unaware of the contents of the manual until the Regional Grievance
13 Panel.

14 **Establishing Multiple Polling Locations Outside of the Proposed Boundaries, with** 15 **Inadequate Notice to the SRNC-FC**

16 **82.** Much of the decision of the City Council to reimplement online voting rested on
17 DONE's assertion that it could not postpone the election due to the requirement that the election
18 be held within 90 days of acceptance of the SRNC-FC's application, indicating DONE was
19 unwilling to bend its own rules. However, the 2017 Election Manual completely disregards the
20 rule requiring subdivision elections to be conducted within the boundaries of the proposed
21 subdivision by permitting DONE to establish Pop-Up Polls ("PUPs") outside of the boundaries
22 proposed in the SRNC-FC Subdivision Application.

23 **83.** In the following two weeks, DONE established 9 of 12 PUP locations outside of the
24 proposed subdivision, with six polling locations inside City Hall and three within DLANC's
25 boundaries only. (See Exhibit 32.) Moreover, DONE did not provide the SRNC-FC a final list of
26 PUP locations until March 30, 2017 (see Exhibit 33) or inform the SRNC-FC about the first PUP
27 within the SRNC-FC subdivision boundaries until the day of that PUP (see Exhibit 34). This PUP
28 took place on March 29, 2017, with less than 7 hours-notice to the SRNC-FC at LACAN, a

1 community outreach organization in Skid Row. Many Skid Row community members, including
2 homeless community members arrived to find that they were unable to vote, either because they
3 were homeless, or because they lacked photo ID and/or documentation of their stakeholder status.

4 **84.** On April 4, 2017, DONE changed the time for the April 5 PUP at 4th and Main, per
5 requests by residents in the building invalidating extensive outreach materials printed and efforts
6 made by the SRNC-FC whose constituents were less likely to have regular access to electronic
7 communications capable of conveying such last-minute changes. (See Exhibit 35.)

8 **Prohibiting Homeless Voters from Voting Online and at Certain Polls**

9 **85.** While the 2016 Elections Manual provided several ways for homeless persons to
10 vote online and in person, these rules were removed from the 2017 Election Manual. Instead, the
11 2017 Election Manual prohibits homeless persons from voting online or at PUPs. (See Exhibit
12 36.)

13 **86.** While homeless persons were still permitted to self-affirm their stakeholder status,
14 they were limited to doing so at the April 6, 2017 poll, which was open at the James Woods
15 Community Center for four hours only.

16 **87.** In DONE's January 19, 2018 Report Back about the SRNC-FC Subdivision
17 Election, DONE admits that homeless voters were turned away from its PUPs. (See Exhibit 52.)

18 **Requiring New Voters to Adhere to DLANC's Documentation Requirements**

19 **88.** DONE unilaterally determined that the voter registration procedures in place
20 during DLANC's 2016 NC Election would be utilized in the SRNC-FC Subdivision Election.
21 The City Council, far from issuing any policy guidelines or safeguards to ensure the procedures
22 for new voter registration in the SRNC-FC Subdivision Election were constitutionally sound,
23 prohibited DONE from implementing any changes from the previous election.

24 **89.** The 2017 Elections Manual did not provide any means by which persons who were
25 not homeless but who lacked photo ID and/or Stakeholder Documentation could register to vote,
26 whether in person or online. As such, new voters who did not have photo ID and/or the required
27 Stakeholder Documentation were unable to vote.

1 **90.** Moreover, due to the late circulation of the 2017 Election Manual, and the delayed
2 and/or limited assistance received from DONE about the matter, the SRNC-FC had difficulty
3 guiding its constituents who were new voters with the voter registration process.

4 **91.** Moreover, new voters who did have such documentation had high registration
5 failure rates. Assuming a new voter was able to scan in and upload their photo ID and
6 Stakeholder documentation onto the E1C platform, the registration process then required
7 someone on the “backend” of the platform to review their paperwork. Once approved, the
8 individual would be issued a username and pin by email or U.S. Mail, which they could use to
9 vote online remotely or at a “PUP,” but given that online voting was implemented only two
10 weeks before the SRNC-FC Subdivision Election, new users were often unable to complete the
11 voter registration process in time.

12 **92.** In its Report Back about the Subdivision Election, DONE revealed that only 45%
13 of new voters attempting to register to vote were able to complete their registration process and
14 vote. (See Exhibit .)

15 **Bias in Registering DLANC Constituents Listed in Rosters to Vote Online**

16 **93.** Rules promulgated in the 2017 Subdivision Manual permitted Community Interest
17 Stakeholders to register to vote by roster if their community interest group submitted their name as
18 part of its membership roster, along with documentation of group’s work within the community.

19 **94.** A significant number of Skid Row community members whose names were
20 submitted to DONE on rosters, were unable to vote unless they went to the polls. Although
21 DLANC constituents had similar issues, it appears those registering with SRNC-FC organizations
22 had more difficulty obtaining DONE’s assistance. (See Exhibit 42.)

23 **DONE’s Distribution and Use of DLANC’s Registered Voter Email List**

24 **95.** Last-minute get-out-the-vote efforts to preregistered DLANC constituents were easy
25 to accomplish utilizing email lists of registered voters generated by DONE. DONE maintained
26 these email lists, which they had provided to DLANC subsequent to the 2016 NC Election. (See
27 Exhibit 24.) As such, DLANC had every opportunity to utilize its email lists in the 90 days
28 leading the election to conduct voter outreach, but chose not to do so.

1 **96.** DLANC’s registered voter email list was never provided to the SRNC-FC.

2 **97.** On April 3, Mr. Jacob Van Horn forwarded an excel file which he appeared to
3 have received from DLANC President Patti Berman that contained 639 email addresses of
4 preregistered voters to several DLANC advocates. (See Exhibit 24.)

5 **98.** DONE also used the DLANC and HCNC registered voter email lists to get out
6 the vote on at least one occasion. On March March 24, 2017 at 5:41 p.m., DONE sent an email to
7 these voters advising them about the SRNC-FC Subdivision Election as well as where, when and
8 how to vote. (See Exhibit 38.)

9 **DONE’s Implicit Consent to Electioneering by DLANC**

10 **99.** While the 2016 Election Manual and the Election Challenge Portal prohibit
11 electioneering by any “Candidate,” the 2017 Election Manual was edited DONE so that only
12 “Electioneering by Applicant,” i.e., the SRNC-FC, would be the only conduct subject to review by
13 DONE’s Election Challenge procedures. (See Exhibit 37.)

14 **100.** Because the SRNC-FC never received an official 2017 Election Manual, it was
15 unaware of this limitation. Moreover, the Election Challenge Portal still listed “Electioneering by
16 Candidate” under its instructions and in the drop-down menu that Petitioner Jeff Page used to
17 register his election challenge.

18 **DLANC Endorsed Electioneering by United DTLA Using DLANC’s Logo**

19 **101.** At 11:24 a.m. on May 31, 2017, an email containing DLANC’s official logo and
20 address was sent by UniteDTLA@gmail.com, upon information and belief, to those DLANC
21 and HCNC constituents who were pre-registered to vote in the SRNC-FC Subdivision Election.
22 The email, titled “Vote No on Skid Row Separation,” instructed recipients to “Unite Downtown
23 - Vote NO on Skid Row Separation” and contained a URL link containing the name “dlanc” as
24 well as DLANC’s P.O. Box address in the email’s post-script. Moreover, upon clicking the
25 “why did I get this?” link at the bottom of the email, recipients were directed to a page which
26 provided, “You are receiving this email because you reside within the designated area to vote in
27 the DTLA Neighborhood Council Election.” The latter page also listed DLANC’s P.O. Box
28 address as belonging to “Unite DTLA.” As such, it appeared that an entity -- Unite DTLA --

1 was utilizing DLANC resources, including DLANC’s mailing list and logo, to unlawfully
2 solicit votes. (See Exhibit 39.)

3 **102.** At 12:31 p.m., after receiving the above-email, DLANC President Patti Berman
4 sent an email titled “email issues” to an unknown number of individuals with DLANC email
5 accounts, advising them to update certain processes to ensure functioning email access going
6 forward. (See Exhibit 40.)

7 **103.** At 4:11 p.m., after receiving an email from DLANC Director Andrew Douglas
8 who expressed concern about the UniteDTLA@gmail.com email, DLANC President Patti
9 Berman emailed UniteDTLA@gmail.com and asked whoever owned the account to refrain
10 from using “this logo as it is a violation of City policy.” Contrary to statements later made by
11 Ms. Berman to the Regional Grievance Panel, Ms. Berman did not immediately address the
12 issue and when she did, did not do so of her own accord. No further effort was made by Ms.
13 Berman or DLANC to remedy the confusion caused by this solicitation of votes, such as by
14 sending an email to DLANC registered voters, to clarify the use of DLANC’s logo was
15 unauthorized.

16 **104.** At 10:35 a.m. on April 1, 2017, DTLAUnited@gmail.com sent an email to the
17 same mailing list. The email, titled “Vote No on Skid Row Separation,” contained a logo that
18 looked confusingly similar to DLANC’s logo, and instructed its recipients to “Vote NO on
19 Skid Row Separation.” No effort was made by Ms. Berman or DLANC to remedy the further
20 confusion caused by this solicitation of votes. (See Exhibit 41.)

21 **Mismanagement of the Final Vote Count**

22 **105.** In the final vote canvass, the SRNC-FC or the “Yes” position, received 766
23 votes, while DLANC or the “No” position, received 826 votes.

24 **106.** On April 10, 2017, Petitioner Jeff Page requested a recount, which he was
25 entitled to under California law, but DONE denied his request.

26 **107.** Through Public Records Act requests, Petitioners have received several
27 documents containing voter tallies, none of which seem to “add up.”

28 **108.** Moreover, DONE was contacted by E1C in the days after the election about

1 duplicate voters, or persons that had voted online and in person, of which it identified two.
2 DONE did nothing to correct or verify the vote count after receiving notice of this issue.

3 **Administrative Hearing by the Regional Grievance Panel**

4 **109.** The 2017 Election Manual provides, “[a]ny Stakeholder who voted in the
5 election can challenge the election results by visiting the online challenge portal found at
6 EmpowerLA.org and following the instructions there.” The Election Challenge Portal provides
7 grounds for challenging a Neighborhood Council Election including: “Electioneering by
8 Candidate(s), “Explicit use of City logo(s) for Campaign Materials by Candidate(s) (including
9 Neighborhood Council logos),” and “Neighborhood Council Board Endorsement.” The 2017
10 Election Manual provides the same grounds except that only “Electioneering by Applicant” is
11 challengeable.

12 **110.** Per the Election Challenge Portal, each Election Challenge will be subject to
13 three levels of review. First, DONE’s initial review determines if the challenge is timely.
14 Second, three Independent Election Administrators (IEAs) and the Office of the City Attorney
15 review the challenge to determine if it is an acceptable type of challenge, and whether it has
16 supporting documentation “that proves the alleged challenge is...valid, [and] would also have
17 made a difference in the election outcome.” The Subdivision Election Manual provides that
18 “[c]hallenges without such supporting documentation will automatically be rejected.” Finally,
19 accepted challenges are subject to review by a Neighborhood Council Regional Grievance
20 Panel which will determine whether the challenge is valid “based on the documentation
21 submitted, the Department/City Clerk report and public comment.” If the Panel determines a
22 challenge is valid, it must “recommend a remedy, *to be implemented by the Department.*”
23 (*Emphasis added.*)

24 **111.** Election Challenges must be submitted on the Election Challenge Portal no later
25 than five (5) calendar days after the date of the election. On April 10, 2017, Petitioner Jeff
26 Page timely submitted three Election Challenges to the Election Challenge Portal, including
27 Challenge #103 “Campaign Material Issues,” Election Challenge #104 “Inappropriate
28 Neighborhood Council endorsement of a candidate,” and “Challenge #105 “Electioneering by

1 candidates.” On the same day, Petitioner Page also formally requested a recount. (See Exhibit
2 39.)

3 **112.** On or about April 14, 2017, after meeting with the City Attorney, DONE emailed
4 Petitioners and accepted each of the three Election Challenges, stating “[DONE] reviewed the
5 election challenges, and will be convening an Election Challenge Review Panel to resolve the
6 pending challenges.” DONE also rejected Petitioner Page’s request for a recount, stating that
7 “the ballots were already counted as a matter of routine.” (See Exhibit 44.)

8 **113.** On or about May 3, 2017, DONE emailed Petitioners an Election Challenge
9 Panel memorandum that provided the date, time, and location of the Election Challenge Panel,
10 rules governing the Panel proceedings and a report dated April 28, 2017 directed to the
11 “Neighborhood Council Election Challenge Panelists” that stated DONE’s position as to each
12 Election Challenge. (See Exhibit 45.)

13 **114.** Per the memorandum, the written evidence the Panel may consider is limited to
14 the “filed Election Challenge, up to three Witness Statements, and the documents uploaded
15 with the Election Challenge.” However, at the Panel, the City Attorney clarified that “the
16 restriction on evidence is limited to the challenging side.” At the Panel, DLANC was permitted
17 to present binders containing written evidence that the SRNC-FC was not able to review or
18 rebut.

19 **115.** The memorandum thereafter provides for “witness testimony” in the form of
20 opening statements and rebuttals by the person filing the Election Challenge, any party who
21 has been challenged and DONE. Thereafter the Panel is permitted to question the witnesses
22 and hear public comment. Finally, the Panel was instructed to deliberate the Election
23 Challenges and provide a “recommended determination and remedy to [DONE].”

24 **116.** The report attached to the memorandum is titled “Department Report on Skid
25 Row Neighborhood Council Subdivision Election.” It explains the “research” DONE
26 conducted into the Election Challenge, its findings and its recommendation that Election
27 Challenges #104 and #105 be dismissed. Regarding Election Challenge #103, DONE stated
28 that its findings were inconclusive.

1 **117.** DONE’s recommendation as to Election Challenge #104, “Neighborhood
2 Council Board Endorsement” was based on DONE’s findings that (1) DLANC did not
3 convene and vote to officially endorse a position in the election; (2) it is possible that a third
4 party MailChimp account created a campaign utilizing DLANC’s logo, website and address;
5 and (3) that there was no information about a “Vote NO” campaign in MailChimp records
6 provided by DLANC President Patti Berman to DONE at DONE’s request, although DONE
7 noted that such information could have been deleted.

8 **118.** DONE’s recommendation that Election Challenge #105 was based on wording in
9 the 2017 Election Manual which limits electioneering violations to “Electioneering by
10 Applicant,” which DONE found applied only to the SRNC-FC as the party having filed the
11 Subdivision Application.

12 **119.** As to Election Challenge #103 “Explicit Use of a City Logo,” DONE stated that
13 its findings were “inconclusive...despite researching the challenge allegations” but that it
14 believed for Election Challenge #103 to be valid, the “Election Challenge Panel would have to
15 find that DLANC or someone with access to DLANC’s MailChimp sent the initial Unite
16 DTLA email from DLANC’s account using their logo and resources and that this made a
17 difference in the election results.”

18 **120.** On May 3, 2017, the Regional Grievance Panel convened. The Panel heard from
19 and questioned DONE representative Grayce Liu, DLANC President Patti Berman, Vice
20 President of Administration for DLANC Bob Newman, DLANC MailChimp Administrator
21 Amara Ononiwu, and Petitioner Jeff Page. The Panel also heard public comment from
22 Petitioner Katherine McNenny and several other members of the downtown Los Angeles
23 community, many who expressed outrage over DONE’s administration of the election.
24 Following the proceedings, the Panel publicly deliberated the evidence before it, and made
25 findings of fact upon which it based its determination and remedy. The Panel generally found
26 that the 2017 Election Manual was a hastily edited version of the 2016 Neighborhood Council
27 Election Manual, and therefore was required to make several findings of law, to facilitate
28 application of the 2017 Election Manual to the facts of the SRNC-FC Subdivision Election.

1 **121.** As for Election Challenge #103, “Explicit Use of a City Logo,” the Panel noted
2 “VII. Campaigning” in the 2017 Subdivision Election Manual which provides that “the
3 purpose of [the provision governing use of a City logo] is to prevent candidates *or supporters*
4 *of candidates* from campaigning under the express or *implied endorsement* or authorization
5 of...a Neighborhood Council and *prevent voter confusion*” and found that DLANC’s failure to
6 correct the confusion that resulted from the MailChimp campaign constituted “explicit use of a
7 City Logo by a Candidate.” (*Emphasis added.*) The Panel also found that because
8 approximately 1388 of 1590 or 87% of the votes were cast online, the campaign “logically”
9 made a difference in the election outcome. Based on its findings, the Panel unanimously
10 upheld Election Challenge #103.

11 **122.** As for Election Challenge #104, “Neighborhood Council Board Endorsement,”
12 the Panel upheld the Challenge based on the same findings and rationale.

13 **123.** As for Election Challenge #105, “Electioneering by Applicant,” the Panel found
14 that Electioneering applied to the email campaign because, while section “VIII.
15 Electioneering” in the 2017 Election Manual did discuss electioneering as it related to conduct
16 at physical polling locations, email campaigns could be said to be conducted everywhere, and
17 moreover, the 2017 Election Manual was edited hastily. The Panel found that because
18 approximately 1388 of 1590 or about 87% of the votes were cast online, the campaign
19 “logically” made a difference in the election outcome. The Panel voted two-to-one to uphold
20 this challenge over a disagreement about whether the term “Applicant” was the controlling
21 definition as the Election Challenge Portal permits “Electioneering by Candidate.”

22 **124.** Finally, the Panel found that because there were two “candidates” in the
23 Subdivision Election (the “yes” and “no’ positions), that both of these positions were affected
24 and that therefore, every “seat” on the ballot was affected. As such, a new election was an
25 appropriate remedy.

26 **125.** Based on its findings, the Panel voted to sustain all three Election Challenges and
27 issued an “Election Challenge Panel Determination” on DONE letterhead providing that the
28 following remedy be applied to the three Election Challenges:

1 The Election Challenge Panel combined the remedies for challenges
2 #103, 104 and 105 to: within 60 days there shall be an independent
3 investigation to determine if any laws were broken and how many
4 votes were affected; if the number of votes affected is greater than the
vote difference in the election, then the election result shall be
overturned. Within 90 days, if the election result is not changed after
the investigation above, then the election shall be held again, without
online voting.

5 **126.** On May 19, 2017 DONE rejected the Panel's determination, provided in the
6 "Election Challenge Panel Determination" letter, and informed Petitioner Jeff Page that it would
7 "certify the April 6th, 2017 election results as final." DONE further stated that Petitioners could
8 reapply when DONE next accepted applications, sometime in October 2018. (See Exhibit 45.)

9 **127.** The Subdivision Rules and Regulations provide that "remedies can include, but are
10 not limited to, letters of correction/reprimand, disqualification of candidates or voters,
11 Neighborhood Council funding penalties and referral to the City Attorney's Office for criminal
12 prosecution." The Rules and Regulations further provide that "if a challenge is found to be valid,
13 remedies will be narrowly interpreted to affect only the voters, candidates or seats affected" and
14 that "[r]edoing an entire election is not a remedy unless the challenge affected every seat on the
15 ballot."

16 **128.** DONE rejected the Panel's new election remedy after finding that "seat," in this
17 election, was analogous to "vote" and because not every vote was cast online, not all votes were
18 affected by the MailChimp campaign. This finding is not supported by the fact that there were
19 two positions in the election, "Yes" and "No" that were both affected by the campaign and that,
20 by analogy, the only seat in the election, formation of a Skid Row Neighborhood Council, was
21 also affected.

22 **129.** Nothing in the Subdivision Election Rules and Regulations grants DONE
23 discretion to reject the Panel's recommendation, although it does provide that the "Regional
24 Panel determination cannot be appealed." Per the Subdivision Election Rules and Regulations
25 that DONE is required to *interpret* remedies ("if a challenge is found to be valid, remedies will
26 be narrowly interpreted to affect only the voters, candidates, or seats affected.")

27 **130.** In sum, Petitioners allege that they were deprived a fair hearing and due process
28 of law by DONE, who demonstrated a clear bias towards DLANC by green-lighting online

1 voting without advocating for protections for low-income SRNC-FC constituents, by
2 publishing rules that were biased against the SRNC-FC and failing to give the SRNC-FC
3 adequate notice of them, including by establishing all but three PUPs outside of the proposed
4 subdivision boundaries, implementing DLANC's voter registration policies, despite
5 discrediting the same requirements in its own report months earlier, utilizing email lists of pre-
6 registered DLANC voters to get out the vote and make last minute changes to polling
7 locations, and by readily assisting DLANC constituents with registering to vote while being
8 less helpful to SRNC-FC constituents, by mismanaging the vote count, failing to fully
9 investigate the actions upon which Petitioners' Election Challenges were based, including by
10 failing to issuing a subpoena to MailChimp, by ignoring the findings and recommend remedy
11 of the Panel, all of which fatally undermined the SRNC-FC's quest to be certified as the Skid
12 Row Neighborhood Council.

13 **131.** After suffering irreparable injury because Respondents' actions. have denied the
14 SRNC-FC certification as an official government entity and Petitioners Jeff Page and
15 Katherine McNenny admission into the public officers to which they would otherwise have
16 been entitled, Petitioners have exhausted their administrative remedies and respectfully appeal
17 to this Court to assist them in the vindication of their rights and the rights of their constituents.

18 **FIRST CAUSE OF ACTION**
19 **(Traditional Mandamus)**

20 **[To the City of Los Angeles and DONE for Discrimination Against the Homeless]**

21 **132.** Petitioner incorporates all paragraphs in this Petition by reference, as if they were
22 fully set forth herein, verbatim.

23 **133.** Petitioners, and each of them, have a beneficial interest in the outcome of the
24 proceedings because DONE's unconstitutional policy towards homeless voters denied and/or
25 abridged their fundamental right to vote and consequently denied Petitioners admission into the
26 public offices to which they would otherwise have been entitled.

27 **134.** Petitioners, and each of them, do not have any other plain, speedy or adequate
28 remedy at law because DONE's actions denied Petitioners a fair election, and without this Court's
intervention, Petitioners will be required to redo their campaign, an endeavor requiring

substantial time and resources. Moreover, failing to remedy the wrong committed will irreparably harm an already marginalized community by signaling to them that protecting the wealth of a few is more important than protecting the fundamental rights of the people.

135. Petitioners, and each of them, seek each relief under traditional mandamus on the grounds that DONE’s rule prohibiting homeless voters from voting online and at PUPs denied them equal protection of the laws with respect to their fundamental right to vote under article I, section 7 of the California Constitution, and the Fourteenth Amendment of the United States Constitution. (See, i.e., *Harper v. Virginia State Board of Elections* (1966) 383 U.S. 663.)

136. Specifically, the twelve polling places at which homeless voters were prohibited from voting were open for a total of 216 hours, while the polling location at which they were permitted to vote was open for only four hours. Additionally, homeless voters were not permitted to utilize remote online voting at all, while online voting was regularly available to housed voters with internet access during the online voting period. DONE lacked any compelling interest that could justify its policies.

137. Petitioners, and each of them, respectfully request that the Court mandate that DONE void its above policies that unconstitutionally discriminated against homeless voters, and that the vote count in favor of the SRNC-FC be adjusted upwards to remedy DONE's invidious discrimination against the homeless.

SECOND CAUSE OF ACTION

(Traditional Mandamus)

[To the City of Los Angeles and DONE for Violation of Section 2 of the Voting Rights Act]

138. Petitioner incorporates all paragraphs in this Petition by reference, as if they were fully set forth herein, verbatim.

139. Petitioners, and each of them, have a beneficial interest in the outcome of the proceedings because DONE's unconstitutional policy towards homeless voters denied and/or abridged their fundamental right to vote of the majority Black homeless population, and consequently denied Petitioners admission into the public offices to which they would otherwise have been entitled.

140. Petitioners, and each of them, do not have any other plain, speedy or adequate remedy at law because DONE's actions denied Petitioners a fair election, and without this Court's intervention, Petitioners will be required to redo their campaign, an endeavor requiring substantial time and resources. Moreover, failing to remedy the wrong committed will irreparably harm an already marginalized community by signaling to them that the wealth of a few is more important than protecting the fundamental rights of the people.. Petitioners seek to represent the interests of the Black community before their City government but must be voted into office before they can do so.

141. DONE's rules prohibiting homeless voters from voting online and at PUPs disparately impacted the voting rights of the 62% Black homeless population. DONE's voter registration requirements, which make presentation of a Photo ID and documentation of Stakeholder status a prerequisite to registration, denied and abridged the voting rights of the Black population in Skid Row. The disparate impact on this population is intimately connected with a long history of discrimination against the Black community in the City of Los Angeles, including and in particular by the criminal justice system, via the cycle of recidivism that often pauses in Skid Row, as well as the long history of underrepresentation of Blacks in City Council, and the lack of local government's responsiveness to the Black community's needs.

142. Petitioners, and each of them, respectfully request the Court mandate that DONE void its above policies, which violated section 2 of the Voting Rights Act, and adjust the vote count in favor of the SRNC-FC upwards, to remedy DONE's invidious discrimination against Black voters in Skid Row.

THIRD CAUSE OF ACTION (Traditional Mandamus)

[To the City of Los Angeles and DONE – Unconstitutional Online Voting and Voter Outreach]

143. Petitioner incorporates all paragraphs in this Petition by reference, as if they were fully set forth herein, verbatim.

144. Petitioners, and each of them, have a beneficial interest in the outcome of the proceedings because DONE's unconstitutional policies and practices that disadvantaged low-income voters without internet access, denied and/or abridged low-income Skid Row community

1 members' fundamental right to vote, and consequently denied Petitioners admission into the
2 public offices to which they would otherwise have been entitled.

3 **145.** Petitioners, and each of them, do not have any other plain, speedy or adequate
4 remedy at law because DONE's actions denied Petitioners a fair election, and without this Court's
5 intervention, Petitioners will be required to redo their campaign, an endeavor requiring
6 substantial time and resources. Moreover, failing to remedy the wrong committed will irreparably
7 harm an already marginalized community by signaling to them that protecting the wealth of a few
8 is more important than protecting the fundamental rights of the people.

9 **146.** Petitioners, and each of them, seek each relief under traditional mandamus

10 A. DONE colluded with the City Council and other downtown Los Angeles
11 development interests to reimplement online voting for the SRNC-FC Subdivision Election only,
12 just two weeks before the SRNC-FC Subdivision Election.

13 B. DONE determined that DLANC's 2016 Neighborhood Council Election voter
14 registration policies would be the policies applicable in the SRNC-FC Subdivision Election,
15 while at the same time, unilaterally changing previous policies to prohibit homeless voters from
16 voting online or at PUPs.

17 C. DONE automatically registered over 1000 DLANC and HCNC constituents for
18 online voting after advising Stakeholders present at the February 15, 2017 Town Hall Meeting
19 that "the only pre-registration, if there were online voting, they could register online, ahead of
20 time."

21 D. DONE created and distributed an email list of pre-registered DLANC
22 constituents to DLANC board members, and used the email list to send important updates
23 about the election including detailed instructions about where and how to vote.

24 E. DONE worked with DLANC representatives to pick the location of the PUPs,
25 ultimately placing nine of them in locations that were more accessible to DLANC constituents.

26 F. DONE did not advise Petitioners about the first of only three PUPs located
27 within the SRNC-FC subdivision boundaries until the day of the PUP.
28

1 G. DONE changed the time of the PUP within the SRNC-FC subdivision
2 boundaries less 24 hours before the PUP was to set-to open.

3 H. DONE personally assisted DLANC constituents in obtaining access to their
4 online voting accounts, while directing SRNC-FC constituents who were having difficulty to
5 vote in person.

6 **147.** Petitioners, and each of them, respectfully request that the Court mandate that
7 DONE refrain from implementing online voting in Neighborhood Council elections, and
8 adjust the vote count in favor of the SRNC-FC upwards, to remedy DONE's invidious
9 discrimination against low-income voters in Skid Row.

10 **FOURTH CAUSE OF ACTION**
11 **(Traditional Mandamus and Injunctive Relief)**
12 **[To the City Council and DONE for Unlawful Online Voting]**

13 **148.** Petitioner incorporates all paragraphs in this Petition by reference, as if they were
14 fully set forth herein, verbatim.

15 **149.** Petitioners, and each of them, have a beneficial interest in the outcome of the
16 proceedings because DONE's violation of the law denied Petitioners admission into the public
17 offices to which they would otherwise have been entitled.

18 **150.** Petitioners, and each of them, do not have any other plain, speedy or adequate
19 remedy at law because DONE's actions denied Petitioners a fair election, and Petitioners would
20 otherwise be required to redo their campaign, an endeavor requiring substantial time and
21 resources.

22 **151.** Petitioners, and each of them, seek relief under traditional mandamus on the
23 grounds that the City Council and DONE were not legally permitted to implement online voting
24 in the SRNC-FC Subdivision Election. (See *Cal. Elec. Code* § 19209(g) (a voting system pilot
25 program shall not be conducted in a legally binding election without the prior approval of the
26 Secretary of State); and *Cal. Elec. Code* § 19205 (no voting system shall be connected to the
27 internet at any time). While the Los Angeles City Council did approve on-line voting in council
28 file 15-1022-S2 on (Ordinance Number 185606). The City Council did not receive approval from
the Secretary of State for its pilot program or the SRNC-FC Subdivision Election.

1 **152.** Petitioners respectfully request that the Court mandate the City Council and DONE
2 and ban online voting in Neighborhood Council elections and enjoin DONE from counting votes
3 cast online in the official vote tally of the SRNC-FC Subdivision Election.

4 **FIFTH CAUSE OF ACTION**
5 **(Traditional Mandamus)**
6 **[To Respondent DONE – Unlawful Polling Locations]**

7 **153.** Petitioner incorporates all paragraphs in this Petition by reference, as if they were
8 fully set forth herein, verbatim.

9 **154.** Petitioners, and each of them, have a beneficial interest in the outcome of the
10 proceedings because DONE’s violation of the law denied Petitioners admission into the public
11 offices to which they would otherwise have been entitled.

12 **155.** Petitioners, and each of them, do not have any other plain, speedy or adequate
13 remedy at law because DONE’s actions denied Petitioners a fair election, and Petitioners would
14 otherwise be required to redo their campaign, an endeavor requiring substantial time and
15 resources.

16 **156.** Los Angeles Municipal Code section 22.819 at all times herein mentioned required
17 DONE to conduct the SRNC-FC Subdivision Election within the boundaries proposed in the
18 SRNC-FC Subdivision Application. (*Ibid.*)

19 **157.** The boundaries proposed in the SRNC-FC’s Subdivision Application were Third
20 Street to the north, Seventh Street to the south, Alameda Street to the east, and Main Street to the
21 west.

22 **158.** On March 23, 2017 DONE published a revised 2017 Subdivision Election Manual
23 that permitted “PUPs” to be established outside of the boundaries proposed in the SRNC-FC
24 Subdivision Application. DONE thereafter established twelve PUPs, nine of which were outside
25 of the above-alleged boundaries. Petitioners then lost the Subdivision Election by only 60 votes.

26 **159.** Petitioners therefore respectfully request that the Court void 2017 Subdivision
27 Manual rule permitting PUPs to be located outside of the boundaries of the proposed subdivision
28 and enjoin DONE from counting votes cast at any of the polling locations outside of the
subdivision boundary in the official vote tally of the SRNC-FC Subdivision Election.

SIXTH CAUSE OF ACTION

(Traditional Mandamus)
[To DONE – Vote Recount Under Cal. Elec. Code § 15620]

160. Petitioner incorporates all paragraphs in this Petition by reference, as if they were fully set forth herein, verbatim.

161. Petitioners, and each of them, have a beneficial interest in the outcome of the proceedings because DONE's violation of the law denied Petitioners admission into the public offices to which they would otherwise have been entitled.

162. On April 10, 2017, Petitioner Jeff Page emailed DONE General Manager Grayce Liu and other DONE officials and requested a recount of votes cast in the SRNC-FC Subdivision Election.

163. On April 14, 2017, DONE refused to conduct a recount, stating its policy was to

164. Cal. Elec. Code § 15620 entitled Petitioners to a recount if requested within five days of certification of the election results.

165. Petitioners, and each of them, do not have any other plain, speedy or adequate remedy at law because on April 14, 2017, DONE refused to conduct a recount.

166. Petitioners, and each of them, have a beneficial interest in an accurate vote tally.

167. Petitioners therefore respectfully request that this Court mandate that DONE conduct a recount pursuant to the rules government recount found in California Code of Regulations section 20810 et. al.

SEVENTH CAUSE OF ACTION
(Traditional Mandamus)
[To Respondent DONE]

168. Plaintiffs reallege and incorporate the allegations set forth in this Petition by reference, as if they were fully set forth herein, verbatim.

169. Petitioners, and each of them, have a beneficial interest in the outcome of the proceedings.

170. Petitioners, and each of them, do not have any other plain, speedy or adequate remedy at law because DONE's actions denied Petitioners a fair election and admission to the

1 offices which they are entitled, and Petitioners would otherwise be required to redo their
2 campaign, an endeavor requiring substantial time and resources.

3 **171.** Per the 2017 Election Manual, the Regional Grievance Panel was required to
4 determine whether Petitioners' Election Challenges were valid and recommend a remedy "to
5 be implemented by the Department." That remedy was then to be "narrowly interpreted" by
6 DONE, to affect only the "voters, candidates, or seats affected." Moreover, the 2017 Election
7 Manual provides that the decision by the Regional Grievance Panel may not be appealed.

8 **172.** At the May 3, 2017 Regional Grievance Panel, the Panel upheld each of
9 Petitioners' Election Challenges and provided that:

10 "within 60 days there shall be an independent investigation to
11 determine if any laws were broken and how many votes were affected;
12 if the number of votes affected is greater than the vote difference in the
13 election, then the election result shall be overturned. Within 90 days, if
the election result is not changed after the investigation above, then the
election shall be held again, without online voting."

14 Per the 2017 Subdivision Manual, the Panel's determination cannot not be appealed.

15 **173.** DONE was under a ministerial duty to accept the determination of the Regional
16 Grievance Panel as final and interpret and implement the Panel's recommended remedies.
17 Instead, DONE made informal adjudicatory decisions in rejecting each of the Election
18 Challenges and the Panel's recommendations. DONE's final determination was therefore an
19 unauthorized appeal that denied Petitioners due process of law.

20 **174.** Petitioners therefore respectfully request that this Court issue a writ of mandate
21 directing DONE to accept the Panel's determination and interpret and implement the
22 recommended remedy.

23 **EIGHTH CAUSE OF ACTION**
24 **(Administrative Mandamus)**
 [To Respondent DONE]

25 **175.** Plaintiffs reallege and incorporate the allegations set forth in this Petition by
26 reference, as if they were fully set forth herein, verbatim.

27 **176.** Respondent DONE required a hearing be conducted by a Regional Grievance
28 Panel, and the Regional Grievance Panel was required to and did take evidence and exercise
discretion in the determination of facts at a hearing convened on May 3, 2017. As a result of this

1 proceeding, DONE made further findings and issued its “Final Determination” that rejected the
2 determination of the Panel.

3 **177.** DONE’s decision substantially affected the fundamental rights of Petitioners, and
4 each of them, and their constituents, therefore requiring this Court to independently weigh the
5 evidence relevant to Petitioners Election Challenges in reviewing DONE’s decision.

6 **178.** Petitioners, and each of them, seek relief under administrative mandamus, in that
7 DONE proceeded without or in excess of jurisdiction by rejecting, instead of interpreting and
8 implementing, the Panel’s determination as to the Election Challenges.

9 **179.** Petitioners, and each of them, seek further relief under administrative mandamus
10 on the grounds that they were denied a fair hearing because DONE was biased against them and
11 that its final determination was an unauthorized appeal that denied Petitioners due process of
12 law.

13 **180.** Petitioners, and each of them, seek further relief under administrative mandamus in
14 that DONE abused its discretion by not proceeding as required by law.

15 **181.** Petitioners, and each of them, seek further relief under administrative mandamus in
16 that DONE’s decision to reject each of the three Election Challenges was not supported by it and
17 the City Attorneys initial findings that Election Challenges #103-105 were valid challenges with
18 adequate supporting documentation, permitting the Panel to make further findings and issue its
19 decision.

20 **182.** Petitioners, and each of them, seek further relief under administrative mandamus
21 on the grounds that DONE, in its final determination, abused its discretion by making the
22 following findings which were not supported by the evidence:

23 **A.** DONE made a finding of fact that DLANC President Patti Berman did not
24 “implicitly allow a ‘candidate’ to use the DLANC logo” because Patti Berman emailed the sender
25 of the first MailChimp email, UniteDTLA@gmail.com, and asked them to refrain from using
26 DLANC’s logo and the logo was removed from the MailChimp campaign “within a day, when a
27 new ‘Vote No’ email was sent out again by Unite DTLA.” This finding is not supported by the
28 evidence, which demonstrates the second email was sent by a different entity,

1 DTLAUnited@gmail.com, utilizing a different but confusingly similar looking logo, and that Ms.
2 Berman did not take any further corrective action to address DTLAUnited@gmail.com or its
3 mailing list, and that the purpose of the rule against use of the logo is to prevent “candidates” and
4 their supporters from confusing voters, amongst other, newly uncovered evidence, that
5 demonstrates Ms. Berman did implicitly allow a candidate to use the DLANC logo, and even had
6 distributed the DLANC email list in the days leading up to the election, and that other DLANC
7 Directors including Rena Leddy and Estela Lopez, were closely connected to an entity known as
8 United Downtown Los Angeles LLC, which was often referred to as “United DTLA.” Petitioners
9 accordingly request that the Court exercise its independent judgment to find that DLANC did
10 allow a candidate to use the DLANC logo.

11 **B.** DONE made a finding of fact and/or law that the Election Challenge #104
12 Endor2017 Election Manual required DLANC to convene and vote to support a position however
13 this finding is not supported by substantial evidence because DONE initially accepted the
14 challenge as valid and principles of statutory interpretation require the plain meaning of words to
15 control. Petitioners accordingly request that the Court exercise its independent judgment to find
16 DLANC did endorse a “candidate.”

17 **C.** DONE made a finding of fact that Challenge #105 Electioneering by an Applicant
18 only applied to the SRNC-FC, ignoring the fact that DONE changed the rule from Candidate to
19 Applicant at the last minute to further advantage DLANC, that the new rule was never delivered
20 to Petitioners, and the fact that the Election Challenge Portal continues to permit electioneering
21 challenges against all “Candidates.” Petitioners therefore request that the Court exercise its
22 independent judgment to permit electioneering challenges against Candidates.

23 **D.** DONE made a finding of fact that the conduct alleged in the Election Challenges
24 did not make a difference in the “Election Outcome,” which is not supported by the fact that 87%
25 of the votes were cast online, and at least one person at the Panel testified that they did not vote as
26 a result of the MailChimp campaign. Petitioners therefore request that the Court exercise its
27 independent judgment, in light of this and newly discovered evidence to determine the extent to
28 which the “Election Outcome” was affected.

E. DONE made a finding that each “vote” was a “seat” and that therefore, not all seats on the ballot were affected by the Election Challenge. The Panel made findings that DONE negligently amended its election manuals causing confusing, and that the positions “Yes” and “No” were “Candidates” for the purposes of the SRNC-FC Subdivision Election, that each of the Candidates were affected by the conduct alleged in the Election Challenges, and that accordingly every “seat on the ballot” was affected. Petitioners accordingly request that the Court exercise independent judgment to determine that “Yes” and “No” were Candidates in the election and that therefore, the “No” Candidate is subject to the Election Challenge remedy of disqualification.

183. Petitioners therefore respectfully request that the Court permit limited discovery into evidence that Petitioners, exercising reasonable diligence, could not have produced at the Panel, and permit Petitioners to submit said evidence to the Court for the exercise of its independent judgment as to who was responsible for and how many votes were affected by the conduct raised in the Election Challenges. Petitioners further request that the Court mandate DONE reinstitute the Panel's findings that the Election Challenges be sustained, by changing the determination on the EmpowerLA.com website.

NINTH CAUSE OF ACTION **(Declaratory Relief)**

184. Plaintiffs reallege and incorporate the allegations set forth in this Petition by reference, as if they were fully set forth herein, verbatim.

185. Section 904(d) of the Los Angeles City Charter provides that the Department of Neighborhood Empowerment’s “[r]egulations must ensure that all areas of the City are given an equal opportunity to form neighborhood councils.” Moreover, section 904(f) states that the “Regulations shall not restrict the method by which the members of a neighborhood council are chosen, if the process otherwise satisfies the requirements of this Article.”

186. When DONE revised its 2016 Election Manual to create the 2017 Election Manual, DONE established a regulation that requires a given subdivision election “to follow the election procedures of Neighborhood Councils that are subject to the proposed subdivision.”

187. The SRNC-FC alleges that it was denied an equal opportunity to form a

1 neighborhood council when it was required to utilize existing election procedures chosen by
2 DLANC, the neighborhood council from which it sought to subdivide. This is particularly true
3 because the community that the SRNC-FC sought to represent is a low-income and
4 traditionally marginalized community, whereas the surrounding community is a more affluent
5 community that would not be disenfranchised by its own election procedures, such as the
6 ability to vote online or the requirement that stakeholders document, rather than self-affirm,
7 their stakeholder status.

8 **188.** The SRNC-FC further alleges that because it called the Subdivision Election, the
9 requirement that it follow DLANC’s election procedures was a regulation that improperly
10 “restrict[ed] the method by which the members of a neighborhood council are chosen” in
11 violation of section 904(f).

12 **189.** The SRNC-FC seeks a declaration that DONE’s policy regarding choice of
13 election procedures in a given subdivision election violates section 904(d) and (f) of the City
14 Charter in that it fails to provide all “areas of Los Angeles...an equal opportunity to form
15 Neighborhood Councils” and that it is an unlawful restriction on the method by which
16 members of a Neighborhood Councils are chosen” and that the only acceptable policy is to
17 permit Subdivision Applicants to choose election procedures that are sensitive to the needs of
18 the community that they seek to represent.

19 \\
20 \\
21 \\
22

PRAYER FOR JUDGMENT

23 **WHEREFORE,** Petitioner prays judgment as follows:

24 1. For a Preemptory Writ of Mandate directing DONE to discontinue its policies
25 that deny or abridge homeless persons fundamental right to vote under article I, section 7 of the
26 California Constitution and section 2 of the Voting Rights Act. by refusing to let them vote at
27 every polling location.
28

1 2. For a Preemptory Writ of Mandate directing DONE to discontinue its policies
2 which violate section 2 of the Voting Rights Act.

3 3. For a Preemptory Writ of Mandate directing DONE to discontinue its photo ID
4 and voter registration requirements that violate article I, section 7 of the California Constitution,
5 the Fourteenth Amendment of the United States Constitution.

6 4. For a Preemptory Writ of Mandate directing DONE to adjust the “Yes” vote count
7 upwards by at least ten percent (10%), to remedy DONE’s invidious discrimination against
8 homeless, Black, and low-income voters in Skid Row.

9 5. For a Preemptory Writ of Mandate directing the City Council to void its action
10 that re-implemented online voting and directing DONE to disqualify all votes cast utilizing the
11 E1C online voting platform.

12 6. For a Preemptory Writ of Mandate directing DONE to disqualify all votes cast at
13 polls outside of the boundaries of the proposed Skid Row Neighborhood Council subdivision,
14 including those votes cast online, and omit them from the final vote tally;

15 7. For a Preemptory Writ of Mandate ordering DONE to accept the determination by
16 the Respondent Regional Grievance Panel as a final determination and change the outcome of the
17 determinations on its empowerla.org website.

18 8. For a Writ of Administrative Mandamus, directing DONE to interpret and
19 implement the findings of the Regional Grievance Panel, in a manner that is consistent with the
20 findings of this Court.

21 9. For a declaration that DONE’s policy that leaves choice of election procedures to
22 the existing Neighborhood Council violates section 904(d) and (f) of the Los Angeles City
23 Charter.

24 10. For reasonable attorney’s fees pursuant to C.C.P. § 1021.5 and Gov. Code § 900;

25 11. For costs of this proceeding and costs of suit; and

26 12. For such other and further relief as the Court may deem just and proper, including,
27 but not limited to, referral to the District Attorney’s office for further review and investigation.

28 DATED: July 20, 2018

The Law Office of Christine Challoner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BY:

—

Christine M. Challoner Esq.
Attorney for Petitioners

DATED: July 20, 2018

BY:

—

Grant Beuchel Esq.
Attorney for Petitioners

1 **VERIFICATION**

2 I, JEFF PAGE, declare:

3 I am a Petitioner in the above-titled action, individually and in my capacity as Chair of the
4 SRNC-FC. I have read the foregoing Verified Petition for Writ of Mandamus and Administrative
5 Mandamus and know the contents thereof to be true of my own knowledge except as to those
6 matters that are alleged on information and belief, and as to those matters I believe them to be
7 true.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct.

10
11 Executed this 25th day of July, 2018 at Los Angeles California.

12
13 _____
14 JEFF PAGE

15 **VERIFICATION**

16
17 I, KATHERINE MCNENNY, declare:

18 I am a Petitioner in the above-titled action. I have read the foregoing Verified Petition for
19 Writ of Mandamus and Administrative Mandamus and know the contents thereof to be true of my
20 own knowledge except as to those matters that are alleged on information and belief, and as to
21 those matters I believe them to be true.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is
23 true and correct.

24
25 Executed this 25th day of July, 2018 at Los Angeles California.

26
27 _____
28 KATHERINE MCNENNY

